

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:22-cv-00057-MR**

ANTWAIN LAMAR DENNIS,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
)	
LESTER TORRES, et al.,)	
)	
Defendants.)	
<hr style="width:40%; margin-left:0"/>)	

THIS MATTER is before the Court on Plaintiff's "Motion for An order Compelling Discovery." [Doc. 76].

Pro se Plaintiff Antwain Lamar Dennis ("Plaintiff") is a prisoner of the State of North Carolina currently incarcerated at Granville Correctional Institution in Butner, North Carolina. On May 13, 2022, he filed this action pursuant to 42 U.S.C. § 1983 against Defendants Lester Torres, FNU Cook, Giavanni Caban, Christopher Hansley, and Luis Velasco, all identified as Correctional Officers at Alexander Correctional Institution ("Alexander"); and Defendants Whatt White and Dustin Goins, both identified as Sergeants at Alexander; all in their individual and official capacities. [Doc. 1 at 2-3; see Doc. 21 at 3]. Plaintiff's individual capacity First Amendment retaliation, Eighth Amendment excessive force, and Fourteenth Amendment equal

protection claims against Defendants Goins, Torres, Hansley, Caban, White, and Velasco survived initial review. [Doc. 9 at 13; Doc. 25 at n.1, 8]. Defendant Cook and Plaintiff's official capacity claims were dismissed. [Doc. 9 at 3]. On March 13, 2023, the Court entered its Pretrial Order and Case Management Plan (PTOCMP), which required that discovery be completed by July 7, 2023. [Doc. 55]. This deadline was never extended and expired on July 7. The dispositive motions deadline has thrice been extended and now expires on November 14, 2023. [8/10/2023, 9/8/2023, & 10/10/2023 Text Orders].

On September 7, 2023, Defendants moved the Court to order that they did not have to respond to Plaintiff's untimely Second Request for Production of Documents. [Doc. 66]. As grounds, Defendants stated as follows. On June 30, 2023, Plaintiff served his first set of discovery requests on Defendants via U.S. mail, only seven (7) days before the expiration of the discovery deadline. Despite the untimeliness of this request, Defendants timely responded to Plaintiff's first discovery requests. [Id. at 2]. Then, on or about August 14, 2023, defense counsel received Plaintiff's unsigned second Request for Productions of Documents, which was dated August 10, 2023, via U.S. mail. [Id.; see Doc. 67-1]. On September 18, 2023, the Court granted Defendants' motion, noting, in part, that the discovery deadline in

this case expired on July 7, 2023, and Plaintiff sought no extension of this deadline. [Doc. 69 at 2-3].

On September 25, 2023, presumably not having yet received the Court's Order, Plaintiff moved to compel a response to his late discovery request. [See Doc. 70 at 4; Doc. 70-1]. As grounds, Plaintiff stated that he submitted a request for production of documents on Defendants "on date 8/8/2023 or own about 8/10/2023 ... but have not yet received the answers for production of documents." [Doc. 70 at 3 (errors uncorrected)]. Plaintiff provided a list of all the documents and things he claimed were not produced and argued that Defendants "did not produce all full, complete ... documents ... for [Plaintiff's] discovery facts." ¹ [Id. at 2-4]. Two days later, Plaintiff moved for an extension of time "so [he could] get production of documents from Defendants asking the Judge the order the defendants to answer [his] production of documents." [Doc. 72 (errors uncorrected)].

The Court denied Plaintiff's motions to compel and for an extension of time. [Doc. 73]. The Court had already ordered that Defendants did not

¹ In an improper letter directed to the undersigned that was submitted with Plaintiff's motion and began, "Dear yohonor," Plaintiff explains that he was transferred to Houston, Texas, for an evaluation "from about May, June" and he "did not have much time to get [his discovery] done." [Doc. 70-1]. Plaintiff states that he was unable to take legal mail or write letters because he was indigent and "not [there] long enough to receive indigenget [*sic*] stamps." [Id.].

have to respond to Plaintiff's untimely request for production of documents, which appeared to be the same request as at issue. The Court noted:

Until now, Plaintiff failed to seek an extension of the long-expired discovery deadline and, even if the Court were to consider Plaintiff's improper letter as stating sufficient grounds to sua sponte extend the deadline, Plaintiff has failed to include a copy of the disputed discovery request or certify that he has in good faith attempted to confer with Defendants pursuant to Rule 37(a)(1) of the Federal Rules of Civil Procedure before filing this motion. [See Doc. 70].

Plaintiff now moves to compel Defendants to respond to certain discovery requests.² [Doc. 76]. Plaintiff provides a list of documents that he claims were requested on July 7, 2023, and not produced by Defendants.³ [Id. at 3-4]. The Court will deny Plaintiff's motion. Plaintiff again fails to certify that he has in good faith attempted to confer with Defendants pursuant to Rule 37(a)(1) of the Federal Rules of Civil Procedure before filing this motion. [See id.]. Moreover, as before, the discovery period in this case expired on July 7 and Defendants responded to Plaintiff's timely discovery request(s).

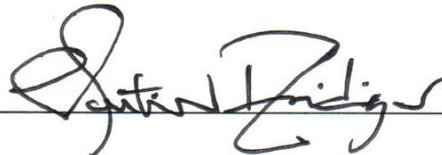
² Oddly, Plaintiff's motion is dated and was signed on August 10, 2023, but not postmarked until October 10, 2023. [See id.; Doc. 76-1].

³ This list is nearly identical to the list of documents that he requested on or about August 10, 2023 and were the subject of Plaintiff's previous motion to compel. [See Doc. 70 at 3-4].

Plaintiff is admonished that any further motions to compel seeking the production of these same materials may be summarily denied.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion [Doc. 76] is **DENIED.**

IT IS SO ORDERED.



Martin Reidinger
Chief United States District Judge

